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Cover Page Footnote

This speech was delivered as the Journal of Land Use and Environmental Law's 1991 Distinguished Lecture on October 23, 1991. From February 2, 1987, to January 31, 1991, the author was the Secretary of the Florida Department of Community Affairs which has responsibility for implementation of the state's growth management laws.

SHAPING FLORIDA'S FUTURE: TOWARD MORE COMPACT, EFFICIENT, AND LIVABLE DEVELOPMENT PATTERNS*

THOMAS G. PELHAM**

Florida's Growth Management Act is the most comprehensive, innovative, and ambitious legislation of its kind in this country. Cloaking planning theories and concepts with the force of law, the Act seeks to transform both public and private sector conduct with regard to the development of this state. It seeks this transformation through a dramatic alteration of the processes and policies which control development. Among its many notable features are the following:

(1) The Act elevates planning over regulation, and through its various plan consistency requirements, subjugates the zoning, subdivision, and other regulation of land development to the standards of a local comprehensive plan.

(2) The Act reclaims for the state a sizeable measure of the police power previously delegated to local governments by subjecting these local comprehensive plans to state review and approval.

(3) The Act ensures the availability of adequate public facilities to serve development through imposition of a new "pay as we grow" policy known as concurrency.

(4) The Act establishes other state growth and development policies designed to shape Florida's growth into more compact, efficient, and livable development patterns.

It is these latter policies, popularly known as the urban sprawl policies, or more accurately, the policies to discourage urban sprawl, which I wish to discuss today. First, I will discuss the problem of sprawl from a national and Florida perspective. Second, I will explain the response of Florida's Growth Management Act to this problem. Third, I will describe some of the legal challenges to the state policy against sprawl. Fourth, I will discuss some of the practical problems encountered in implementing the state's anti-sprawl policies.

First, let us consider the problem of sprawl. The problem is one of patterns of development: the design, form, or configuration of devel-

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opment, from the smallest components—individual buildings—to the larger units—neighborhoods, towns, and regions—and most importantly of all, the way in which these various components relate to each other in the resulting overall development pattern. In the historical evolution of land use planning law, the concern over development patterns is a relatively new development. But as Florida becomes a more urbanized state, our growth management laws must address the critically important issue of development patterns.

Christopher Alexander and his planning colleagues at the Center for Environmental Structure in Berkeley, California, in their pioneering work, *A Pattern Language*, summarize the problem as follows:

In short, no pattern is an isolated entity. Each pattern can exist in the world, only to the extent that it is supported by other patterns: the larger patterns in which it is embedded, the patterns of the same size that surround it, and the smaller patterns which are embedded in it.

This is a fundamental view of the world. It says that when you build a thing you cannot merely build that thing in isolation, but must also repair the world around it, and within it, so that the larger world at that one place becomes more coherent, and more whole; and the thing which you make takes its place in the web of nature, as you make it.

“Urban sprawl” results when these fundamental truths are ignored. The term has reference to certain undesirable development patterns which I will define with more specificity later in this lecture. But generally, it refers to scattered, functionally unrelated development patterns without a center or focus, usually of a low density, single-dimensional nature, which do not fit into or form any workable, coherent whole.

Planners and other students of urban form and human behavior are telling us with increasing urgency that such development patterns are afflicted with serious physical, economic, and social evils. The physical evils are well-known and documented. Urban sprawl saps the strength of cities and towns which become deserted wastelands as development moves further out into the hinterlands. It eliminates wetlands, forests, farmlands, and vegetative and wildlife habitat. It clutters rural and open lands with poorly planned, low density subdivisions which despoil our rural landscape and frequently interfere with important agricultural activities. It lines our highways with endless strip development, which in conjunction with endless low density residential sprawl, makes public transit economically impossible, and generates massive traffic congestion with its attendant air pollution problems.

A few startling statistics graphically illustrate what sprawl is doing to our landscape both nationally and in Florida. Each day at least five and one-half square miles of rural land in the United States is converted to urban or suburban development. In Florida our natural landscape is disappearing at a faster rate than the Brazilian rain forest which we so piously complain about in this country. According to one report, twenty acres of land every hour, 450 acres every day, and 164,000 acres each year are cleared. Finally, in urbanizing areas, both nationally and in Florida, while population has been increasing rapidly, the density of the population has been decreasing significantly. In other words, we are spreading a thin veneer of development, like peanut butter, across our natural landscape.

Economic inefficiency is a second evil attributed to sprawl. A number of studies suggest that the public cost of providing infrastructure and other services to these distant, scattered, low density developments is significantly greater than far more compact development patterns. In his recent work, *The Cost of Alternative Development Patterns: A Review of the Literature*, Professor Jim Frank of the Florida State University Department of Urban and Regional Planning, surveys and analyzes these studies. As he points out, while none of these studies are without technical flaws, they collectively suggest that sprawl substantially increases the cost of public facilities. In a time of severe fiscal crisis, this point takes on added significance.

The social evils of sprawl are now receiving attention. Recently, a wide range of professionals—planners, physicians, psychologists, ecologists, and management consultants—have begun to focus on the non-physical and non-economic impacts of sprawl—its impact on human health, behavior, and productivity. They denounce our sterile, characterless, and stressful development patterns with no sense of community or place and call for more study and attention to “place.”

In his brilliant new book, *The Experience of Place*, Tony Hiss discusses the emerging new science of place and explores the relationship between quality of place and quality of life. According to Hiss, by destroying the nurturing qualities of our natural surroundings and replacing them with sterile and stressful environments, “[o]ver-development and urban sprawl can damage our lives as much as they damage our cities and countryside.” His solution: make sure that new development not only creates jobs and homes and protects the environment, but also produces livable places that will nurture our growth as healthy, happy, and productive citizens.

Childhood's Future, a new book by Richard Louv, also sees a causal relationship between the current plight of the American family

and its children and the unlivable communities produced by urban sprawl:

People are divorced from nature, they live in sprawling cities with no centers and few natural meeting places, neighborhoods that can barely be called neighborhoods—an environment that no longer nurtures children and which drives family life deeper into itself.

The message is that we can no longer ignore the impact of our built environments on our families and our children.

Similarly, Christopher Alexander and his colleagues also call for improvements in our built environment. They contend that there are development patterns deeply rooted in human nature which form a living language that speaks volumes about how we should structure our environment to create more livable communities. In their view we have lost the ability to speak this pattern language and have replaced it with a “brutal and fragmented” language that is not based on human or natural considerations. They urge a return to natural design principles “which can make people feel alive and human.”

The problem of sprawl is not unique to Florida; it is of national proportions. Numerous national commentators have written about it, none more forcefully than Anthony Downs in his recent article, “The Need for a New Vision for the Development of Large U.S. Metropolitan Areas.” According to Downs, for the past several decades, the dominant ideal vision has been built on four pillars: (1) ownership of detached, single-family homes on spacious lots; (2) ownership and use of a personal private automobile; (3) suburban workplaces as low-rise office or industrial buildings or shopping centers surrounded by acres and acres of parking lots to encourage and accommodate automobile use; and (4) the desire to live in small communities with their own strong home-rule powers. In Downs’ opinion, the ideal vision has been constantly reinforced for decades by the marketing efforts of the real estate industry and suburban communities who have portrayed the four pillars as the essence of “the American Dream.” Downs also points out the serious problems created by the development patterns which flow from this ideal. For example, he notes that these patterns generate immense automobile travel requirements which produce massive traffic congestion, make mass transit infeasible, produce air pollution, and create tremendous housing-jobs imbalances, particularly for low-income workers.

Other states are recognizing the problems created by sprawling development patterns and are enacting planning legislation to curtail sprawl. For example, Oregon, Washington, and New Jersey have instituted state planning processes which have the curtailment of sprawl

as a primary goal. As further evidence of the national dimensions of the problem, a national research effort is currently underway under the sponsorship of the National Growth Management Leadership Project. The purpose of this study is to show the role of compact land development patterns on transportation planning and air quality.

Although the sprawl problem is not limited to Florida, it does seem almost endemic to this state. Indeed, for decades Florida has been marketed as a low density, low tax, low cost land paradise in which you can sprawl wherever you want. As a result, the state is in danger of becoming one massive, and for the public, very expensive subdivision. The reports of two gubernatorial commissions—one appointed by a Republican governor, the other by a Democratic governor—have warned of the fiscal consequences of our sprawling development patterns. In 1989, the *Final Report of Governor Martinez' Task Force on Urban Growth Patterns* stated that

Florida is a rapidly growing state. The majority of this growth is occurring in unincorporated areas at low densities, resulting in a rate of land urbanization that is far outpacing our population growth. Florida is also facing tremendous urban sprawl—a development pattern characterized by scattered, unplanned, low density development that is not functionally related to adjacent land uses. The proliferation of urban sprawl is creating urban growth patterns which are degrading the overall quality of life in Florida and increasing fiscal pressures on our state and local governments.

Similarly, the *Final Report of Governor Chiles' Commission for Government by the People*, released in late 1991, concluded that

Florida is addicted to sprawl. Education, health services, and the environment are short changed as the state's resources are stretched to pay for ever more strip development and ever more distant suburbs. Growth policies emphasizing compact, more efficient growth patterns are needed to break this cycle. We desperately need to redirect Florida's resources into education, health services, the environment, and other areas that will improve our quality of life.

Urban form may not be of immediate concern in a frontier state, but Florida is now a highly urbanized state. Development patterns that were insignificant when Florida had only two or three million people have become a major problem now that our state has almost fourteen million people and a projected population of eighteen million by the year 2000.

How does the Florida Growth Management Act respond to the problem of development patterns? It makes the discouragement of

urban sprawl and the encouragement of more compact development patterns the official policy of this state. Curtailment of sprawl is an integral part of the state comprehensive plan. The state plan contains numerous policies designed to accomplish these goals. For example, it requires a clear separation of urban and rural uses in order to preserve the distinction between rural and urban areas; it directs new development to areas that already have in place the infrastructure necessary to serve development, thereby avoiding "leapfrog" development patterns. It seeks to enhance the livability and character of urban areas through an attractive and functional mix of residential, working, shopping, and recreational uses. It gives high priority to downtown development and redevelopment, and it directs the conservation and protection of wetlands, forests, agricultural lands, and other important natural resources.

Florida Administrative Code chapter 9J-5, the minimum criteria rule approved by the Florida Legislature for state review and approval of local plans, contains several specific anti-sprawl requirements. Each local comprehensive plan must contain a future land use plan map that discourages the proliferation of urban sprawl and which allocates only the amount of land that is needed to serve the jurisdiction's projected population during the planning period, usually ten or twenty years. In addition, the local plan must include a capital improvements element that contains policies governing the extension and provision of utilities in a manner which discourages urban sprawl. The responsibility of ensuring implementation and application of these policies is given to the Department of Community Affairs (DCA), the state land planning agency, which must review local comprehensive plans for consistency with the Growth Management Act, including the anti-sprawl policies.

Because DCA has been responsible for implementing and enforcing the state legislative policy to discourage sprawl, some growth management critics have found it fashionable to dismiss "DCA's urban sprawl policy" as the invention of state planners. This criticism ignores not only the plain language but also the legislative history of Florida's growth management laws. Urban sprawl was a major concern from the very beginning of the legislative process which led to enactment of our growth management legislation. For example, throughout the 1983-84 deliberations of the House Select Committee on Growth Management, urban sprawl received major attention. Committee members ranked urban sprawl as one of the top five growth management issues facing the state.

In early 1983, the House Committee issued an interim report which expressed strong support for the promotion of more compact urban

development and the protection of rural areas. In early 1984, the Committee issued a report on its Saddlebrook conference which proposed a variety of solutions for Florida's growth problems, including urban redevelopment policies, incentives for urban in-fill and disincentives for decentralization, and urban growth boundaries. Given this background, it is not surprising that the discouragement of urban sprawl is an integral part of the growth management laws adopted by the Florida Legislature in 1985.

Nevertheless, when DCA began to emphasize and implement these policies, the counterattacks from the merchants of sprawl were swift and fierce. The point-counterpoint of the debate has been intense, acerbic, but also humorous at times: (1) Sprawl is like obscenity; you can't define it but you know it when you see it. (Although there is a well-established definition, this criticism never bothered me because I do know sprawl when I see it and it is obscene!); (2) The anti-sprawl policies are anti-development and no-growth. (On the contrary, the policies are pro-development, but they insist that development be of improved patterns and of higher quality.); (3) No development is allowed in rural areas. (Actually significant development can occur in rural areas if it conforms to appropriate patterns and is designed to be compatible with and maintain the rural character of the area.); (4) The policy forces everybody to live in big cities and will convert Florida into another Manhattan. (In actuality the policies promote a better mix and form of development wherever it occurs, in rural or urban areas, and affords ample opportunity for low residential living.); (5) The more compact development model will drive new population into coastal areas where more development is undesirable. (Both our growth management and other coastal protection laws prohibit inappropriate development in, and direct development away from, coastal areas.); (6) Anti-sprawl reflects the aesthetic preferences of elitist snobs. (As Tony Hiss points out, good aesthetics are good economics because people will pay for more attractive, quality environments, and anyway, why should we not try to keep Florida beautiful?); (7) The more compact development model is not marketable because people don't want it. (How do we know since all we have been peddling for decades in this state is low-density sprawl?); and finally, the most mindless criticism of all, (8) This is communism; just as central planning is coming to an end in Eastern Europe, we are adopting it in Florida. (If you think there is more freedom in Eastern Europe, can we buy you a one-way ticket to Romania?).

As the dust settles, DCA's implementation of the state's anti-sprawl policies has been upheld in three important cases. In the first case, a state hearing officer and then the Florida Administration Commission

(the Governor and Cabinet) upheld DCA's determination that the Charlotte County comprehensive plan was not in compliance with state growth management requirements primarily because of urban sprawl issues. DCA found that the County's plan contained a substantial over-allocation of land for development, encouraged and promoted "leapfrog" development patterns, and contained enormous expanses of single-use, low-density residential areas that were not functionally related to other land uses.

In a second case, a state hearing officer upheld DCA's appeal of a local development of regional impact order approving a large industrial park on the ground that it violated the state comprehensive plan's policies which discourage urban sprawl. In reaching this conclusion, the hearing officer noted that the project was located outside the urban core in a primarily rural, undeveloped area; that the proposed project contained only industrial and commercial acreage rather than a functional mix of living, working, shopping and recreational activities; that there were inadequate facilities available to serve the project; and that the project was inconsistent with the state goal of preserving agricultural land.

The third and most important case is *Homebuilders and Contractors Ass'n of Brevard, Inc. and Florida Home Builders Ass'n v. Department of Community Affairs*, a decision rendered by the Florida First District Court of Appeal on August 8, 1991. This case involved rule challenges brought by parties who alleged that DCA was applying non-rule policies on urban sprawl which had not been properly adopted as rules as required by the Florida Administrative Procedure Act. The challenges were filed after DCA rejected the Charlotte County and Brevard County plans largely because of their failure to discourage urban sprawl. In affirming a state hearing officer's order rejecting the rule challenges, the court agreed that DCA was not improperly applying policies which were required to be adopted as rules. (This issue will soon become moot since DCA is in the process of adopting its urban sprawl policies as a rule in accordance with the requirements of the Florida Administrative Procedure Act.)

However, probably the most significant aspect of the court's opinion is its agreement with the hearing officer that there is a well-established, consensus definition of urban sprawl. Based on the evidence presented at the administrative hearing, the hearing officer and the court agreed that urban sprawl is

the extension of urban-type development into rural, agricultural, or other undeveloped or sparsely developed lands in a haphazard development pattern in which land uses are not functionally related to each other.

Common patterns of urban sprawl are the ribbon pattern, leapfrog pattern, and concentric circle pattern. In the ribbon pattern, development not functionally or proximately related to other non-urban development in the area extends in ribbons or strips along certain roads and away from urban development.

In the leapfrog pattern, development not functionally or proximately related to other non-urban development in the area leaps from urban development so as to leave significant amounts of rural, agricultural, or other undeveloped or sparsely developed land between existing urban development and the scattered leapfrog development. The concentric circle pattern is similar except that the development not functionally or proximately related to other non-urban development in the area assumes the pattern of concentric circles, such as along rural roads bypassing an urban area, and is characteristically more exclusively low-density residential.

Although many court decisions from other states have dealt with and referred to the issue of urban sprawl, I believe that *Home Builders* is the first American court decision to set forth a detailed and comprehensive definition of urban sprawl.

Another aspect of the court's decision is also significant. The court rejected contentions that DCA improperly prefers the planning theory of urban containment over the theory of market driven development. Again quoting from the hearing officer's order, the court noted that DCA's model land use element, which is promulgated to guide local governments in the preparation of their comprehensive plans,

takes a balanced approach to urban containment in which the encouragement of urban in-fill works in tandem with the allowance of planned development of areas that are sparsely developed or entirely undeveloped. While discouraging urban sprawl, the model element nonetheless establishes urban service areas beyond the boundaries of present urban areas, designates large tracts of low density residential outside the urban services areas, designates extremely low density residential and other areas designated for agricultural or other nonresidential uses, and establishes a new town center in a largely undeveloped area. By so doing, the model element simultaneously accommodates current market preferences and focuses development activity that, if unplanned, would perpetuate patterns of sprawling development in contravention of the Act, Chapter 9J-5, and the State Plan.

Despite this court decision, continuing legal challenges to the state's anti-sprawl policies are inevitable. Indeed, another recently filed lawsuit, *Santa Rosa County v. Administration Commission*, challenges

the constitutionality of the urban sprawl provisions of Chapter 9J-5, DCA's minimum criteria rule.

Aside from the legal challenges, difficult implementation issues must be addressed and resolved if we are to achieve the state vision of more compact development patterns in Florida. Controlling the powerful centrifugal development pressures which spin off subdivisions and strip commercial developments in every direction in helter-skelter fashion requires a broad array of both economic and regulatory incentives. The 1989 *Final Report of the Governor's Task Force on Urban Growth Patterns* presents a comprehensive set of recommendations for combating urban sprawl. Both the state and local governments should seriously consider adoption and implementation of these recommendations.

Preventing the despoliation of all of our rural landscape with poorly planned urban development will be a continuing challenge. Some local governments have sought to maintain the important distinction between urban and rural areas by adopting urban growth boundaries and severely restricting development rights beyond those boundaries. Because this is an extremely controversial planning approach in some areas, other local governments have allocated more development rights to their rural areas but also impose strong planning controls which require the clustering of densities into more compact forms that are compatible with and maintain the overall rural or agricultural nature of the area. This approach is consistent with sound planning strategies which recognize that significant development can be accommodated in rural and agricultural areas without altering their character. For example, the award-winning book, *Dealing with Change in the Connecticut River Valley: A Design Manual for Conservation and Development*, prepared by the Center for Rural Massachusetts, graphically illustrates how a rural landscape can absorb significant densities of development without destroying its rural character or private property rights. DCA has encouraged local governments to consider such techniques in planning for rural areas.

The rural areas in our state present different planning problems than our large urban areas. Some of them do not have a tradition of land use planning, and consequently implementation of the Growth Management Act in these jurisdictions is especially controversial and emotional. Many of these counties need and desire a broader economic base. They do not need the same degree or kind of land use regulations that are necessary and appropriate in our large cities and counties. Moreover, some of them do not have the monetary and technical resources needed to administer complex adequate public facilities and other land use regulatory systems. However, they do need

basic land use plans which will guide their future growth and development.

Recently, a coalition of rural North Florida counties has been pressuring DCA to relax the urban sprawl (and other growth management) requirements in these counties. Their argument: urban sprawl is an urban, not a rural, problem. The obvious fallacy of this contention is that our urban areas were once rural, and because they failed to plan in advance, they are now consumed by sprawl. Rural sprawl leads to urban sprawl. Although these rural counties with low growth rates do not need the same degree of growth controls as rapidly urbanizing areas, they do need a basic land use plan to guide their growth into more compact development patterns. Consequently, it is discouraging to note that in recent months DCA has begun to approve plans for these counties which do not adequately address the issue of development patterns and which defer these difficult land use planning decisions for future resolution. Although this approach may be politically expedient in the short term, it sacrifices the opportunity which these counties have to avoid the mistakes of our existing urban areas.

Achieving the mixed-use patterns encouraged by Florida's growth management laws presents another challenge. For decades, our traditional zoning laws have segregated land uses and promoted single-dimensional development patterns. How do we now change these ingrained habits and educate our citizens about the need for more balanced communities with an appropriate mix of all necessary land uses in closer proximity to each other? How do we convince people that the development patterns they have created in the past are generating so many of the problems which plague us today? Sustained and forceful leadership on these issues is essential if we are to change these patterns of behavior and development.

Finally, how do we wean ourselves from almost total dependence on the private automobile? The fourth largest state in the country cannot continue to rely upon a transportation system which consists of roads, roads, and more roads. The endless construction of roads has both spawned and supported the sprawling development patterns that characterize our state. But in many areas of our state, more roads are no longer financially or physically possible or environmentally desirable, and massive traffic congestion is immobilizing our urban population. Florida must adopt a more modern transportation policy which supplements the private automobile with public transit options. Paradoxically, however, the sprawling development patterns which have congested our roads make it very difficult to construct and operate public transit systems efficiently.

These are very difficult and complex issues. But as Florida continues to grow, with another three to four million people projected to move into the state in the 1990s, we have no choice but to confront them. For years Florida has given high priority to protecting its natural environment and non-human species from the impacts of our built environment. Now we must begin to focus on the impact of the built environment on our citizens, on ourselves. Unless we begin to shape our phenomenal growth into more compact, efficient, and livable development patterns, Florida will surely lose completely the sense of place and quality of life which has made it unique. So, in the words of Christopher Alexander and his colleagues, let us begin to learn and speak a new "pattern language."